

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

HAYLEY HESSEL, by her next friend
JOHN HESSEL

88

Plaintiff,

88

V.

CIVIL ACTION NO. H-07-0581

ADELAIDE HORN, in her official capacity as COMMISSIONER, TEXAS DEPARTMENT OF AGING AND DISABILITY SERVICES and ALBERT HAWKINS, in his official capacity as EXECUTIVE COMMISSIONER, TEXAS HEALTH AND HUMAN SERVICES COMMISSION,

§ § § § § § § § § § § §

Defendant.

AGREED TEMPORARY RESTRAINING ORDER

This matter came before the Court, on February 14, 2007, following notice, on Plaintiff's Motion for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Court, having considered the arguments of counsel, the memoranda of law submitted by counsel, and the affidavits and the verified complaint submitted in support thereof, finds that the requirements for issuance of a temporary restraining order have been met.

The Court specifically finds that Plaintiffs have met the requirements for a temporary restraining order.

Now therefore, it is hereby ORDERED:

- (1) Plaintiff's Motion for a Temporary Restraining Order is Granted;
- (2) Defendants are hereby restrained from reducing the level of private-duty nursing services for which they will pay benefits for Hayley's care below the level in place on February 16, 2007, i.e., 70 hours of private-duty nursing services per week;
- (3) Defendants shall take all steps necessary to effectuate the intent of this order, which is that Hayley's services will remain in effect and not be reduced or withdrawn as of February 17, 2007 due to any previous actions by Defendants;
- (4) This Order shall remain in effect for thirty (30) days commencing on the date of this Order, pursuant to Rule 6(a) of the Federal Rules of Civil Procedure, unless extended by this Court for good cause shown pursuant to Rule 65(b) of the Federal Rules of Civil Procedure, or by agreement of the Parties; and
- (5) A date for a hearing on Plaintiff's Motion for Preliminary Injunction will be set by further Order of this Court.

SIGNED on February 15, 2007, at Houston, Texas.



Lee H. Rosenthal
United States District Judge